

Appl. No. 09/470,100

Amendt. Dated July 30, 2004

Reply to Final Office Action of May 19, 2004

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed May 19, 2004. In the Office Action, claims 5-8 were rejected under 35 U.S.C. §102(e) and claims 1-4, 12-15 and 18-23 were rejected under 35 U.S.C. §103(a). Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 102

Claims 5-8 were rejected under 35 U.S.C. § 102(e) as being anticipated by Broberg (U.S. Patent No. 6,529,680). Applicants respectfully traverse the rejection because a prima facie case of anticipation has not been established.

As the Examiner is aware, in order to anticipate a claim under §102(3), Broberg must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully traverse the rejection.

In particular, Applicants respectfully submit that Broberg teaches a channel map decision list (60) that is formed by the user selecting the channel ranges associated with each source device in advance. As explicitly described on column 5, lines 30-53 of Broberg, the channel map decision list (60) is formed based on advanced selection of ranges of channels. For instance, channels 2-99 were user selected as being supplied by a cable because "cable channels rarely exceed 99." Channels 100-999 were digital channels from a digital satellite receiver. Thus, channel selection is neither automatic nor based on the existence of an overlapping condition as claimed.

In contrast, the claimed invention of claim 5 includes the limitations of a selector controlled by the processor to 1) select a first default source of the plurality of sources *in response to detecting a non-overlapping channel number* for television programs provided by the plurality of sources and automatically program the system to tune to a station for receiving television programs provided by the first default source, and 2) select a second default source of the plurality of sources *in response to detecting an overlapping channel number* for television programs provided by the plurality of sources and automatically program the system to tune to a station for receiving television programs provided by the second default source. Emphasis added.

As a result, tuning of programs is seamless to the user and is based on the presence or absence of overlapping channel conditions, which is not described in Broberg. Hence, Applicants respectfully request withdrawal of the outstanding §102(e) rejection.

Appl. No. 09/470,100
Amdt. Dated July 30, 2004
Reply to Final Office Action of May 19, 2004

Rejection Under 35 U.S.C. § 103(a)

Claims 1-4, 18-20, and 22-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Broberg in view of Morrison (U.S. Patent No. 6,359,580). Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established.

Similar to the arguments set forth above, neither Broberg nor Morrison, alone or in combination, teach or even suggest the operation of automatically programming the overlapping and non-overlapping channel numbers to tune to a station for receiving television programs provided by their assigned sources. In fact, none of these references describe, explicitly or inherently, how programmability may be based on the presence or absence of overlapping channel conditions as explicitly set forth in claims independent claims 1 and 18.

Claims 12-15 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Broberg in view of Stinebruner (U.S. Patent No. 6,133,910). Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established. With respect to claim 12, neither Broberg nor Stinebruner, alone or in combination, suggest (1) *determining if any of the channel numbers used by the plurality of sources are overlapping channel numbers, and if there are overlapping channel numbers...automatically programming the overlapping channel numbers to tune to a station for receiving television programs provided by the selected second source*. Moreover, neither of the cited references suggest that, *in response to determining that any of the channel numbers used by the plurality of sources are non-overlapping channel numbers, automatically programming the non-overlapping channel numbers to tune to a station for receiving television programs provided by the selected first source*.

With respect to claim 21, similarly, neither Broberg nor Stinebruner, alone or in combination, suggest (1) *determin[ing] if there are overlapping channel numbers, and if there are overlapping channel numbers, automatically program[ming] the overlapping channel numbers to tune to a station provided by the selected second default source and automatically program any non-overlapping channel numbers to tune to a station provided by the selected first default source*.

With respect to both claims 12 and 21, none of the references address programmability based on the presence or absence of overlapping channel conditions as explicitly set forth in claims independent claims 12 and 21.

Applicants respectfully request that the Examiner to reconsider and withdraw the §103(a) rejection of claims 1-4, 12-15 and 18-23 under 35 U.S.C. § 103(a).

Appl. No. 09/470,100
Amndt. Dated July 30, 2004
Reply to Final Office Action of May 19, 2004


Conclusion

Applicants respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: July 30, 2004

By 
William W. Schaal
Reg. No. 39,018
Tel.: (714) 557-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8A)

I hereby certify that this correspondence is, on the date shown below, being:

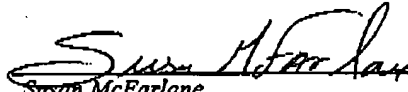
MAILING

☐ deposited with the United States Postal Service
as first class mail in an envelope addressed to:
Commissioner for Patents, PO Box 1450,
Alexandria, VA 22313-1450.

Date: July 30, 2004

FACSIMILE

☒ transmitted by facsimile to the Patent and
Trademark Office.


Susan McFarlane
Date July 30, 2004